

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK (White Plains)**

ANTAYA CALDER, on behalf of herself
and the class

Plaintiff,

vs.

RIEXINGER & ASSOCIATES, LLC,

Defendant.

Hon. Kenneth M. Karas
Civil Action No.: 11-CV-6221

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT
RIEXINGER & ASSOCIATES, LLC TO PLAINTIFF’S COMPLAINT**

Defendant, Riexinger & Associates, LLC (hereinafter, “Defendant”), whose principal place of business is 3100 BRECKINRIDGE BLVD., SUITE 722, , DULUTH, GA, 30096-4985, in answer to Plaintiff’s Complaint, states as follows:

INTRODUCTION

1. The allegations in paragraph 1 contain conclusions of law to which no responsive pleading is required.

2. The allegations in paragraph 2 contain conclusions of law to which no responsive pleading is required.

JURISDICTION AND VENUE

3. The allegations in paragraph 3 contain conclusions of law to which no responsive pleading is required.

4. The allegations in paragraph 4, and its subparts (a) & (b) contain conclusions of law to which no responsive pleading is required.

5. Admitted.

6. The allegations in paragraph 6 contain conclusions of law to which no responsive pleading is required.

7. Denied to the extent that Exhibit A speaks for itself.

8. Denied to the extent that Exhibit A speaks for itself.

FACTS

9. Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

10. The allegations in paragraph 10 contain conclusions of law to which no responsive pleading is required.

11. The allegations in paragraph 11 contain conclusions of law to which no responsive pleading is required.

12. Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial. By way of a further response, the allegations in paragraph 12 contain conclusions of law to which no responsive pleading is required.

13. Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

14. Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

15. Admitted.

16. Denied to the extent Exhibit C speaks for itself. By way of a further response, Plaintiff improperly makes allegations inferring litigation that is not subject to the matter before this court.

FIRST CLAIM OF RELIEF

17. The allegations in paragraph 17 contain conclusions of law to which no responsive pleading is required.

18. The allegations in paragraph 18 contain conclusions of law to which no responsive pleading is required.

19. Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

20. The allegations in paragraph 20 contain conclusions of law to which no responsive pleading is required.

21. Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

22. The allegations in paragraph 22 contain conclusions of law to which no responsive pleading is required.

23. The allegations in paragraph 23 contain conclusions of law to which no responsive pleading is required.

24. The allegations in paragraph 24 contain conclusions of law to which no responsive pleading is required. By way of a further response, Denied. Defendant is without

knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

25. The allegations in paragraph 25 contain conclusions of law to which no responsive pleading is required. By way of a further response, Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

26. The allegations in paragraph 26 contain conclusions of law to which no responsive pleading is required. By way of a further response, Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

27. The allegations in paragraph 27 contain conclusions of law to which no responsive pleading is required. By way of a further response, Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

28. The allegations in paragraph 28 contain conclusions of law to which no responsive pleading is required. By way of a further response, Denied. Defendant is without knowledge or information to form a belief or opinion as to the truth or veracity of said allegation; therefore the Defendant leaves the Plaintiff to her proofs at trial.

WHEREFORE, Defendant requests that this Honorable Court award judgment in favor of Riexinger & Associates, LLC and against Plaintiff, together with costs, attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3) and such other relief as this Honorable Court deems appropriate.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

1. Plaintiff has failed to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

2. Plaintiff suffered no actual damages as a result of Defendant's alleged conduct.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiff's claim is barred by the doctrine of unclean hands.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff's claims are barred pursuant to the applicable statute of limitations.

FIFTH AFFIRMATIVE DEFENSE

5. If discovery reveals that the Debt is subject to an agreement requiring the parties to submit any dispute between them to arbitration, then there is no subject matter jurisdiction over Plaintiff's Complaint.

SIXTH AFFIRMATIVE DEFENSE

6. If a violation of the Fair Debt Collection Practices Act is determined to have occurred, the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably calculated to avoid such error.

SEVENTH AFFIRMATIVE DEFENSE

7. Defendant reserves the right to amend or supplement its affirmative defenses.

WHEREFORE, Defendant Riexinger & Associates, LLC demands that the complaint be dismissed with prejudice and that they be awarded costs of this action, attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3) and such other relief as this Honorable Court may deem appropriate.

Respectfully submitted,

MAURICE & NEEDLEMAN, P.C.

/s/ Rachel Marin

RACHEL MARIN (RM2010)
Attorney for Defendant
Riexinger & Associates, Llc
5 Walter Foran Blvd.
Suite 2007
Flemington, NJ 08822
(908) 237-4550
(908) 237-4551 fax
rmarin@mnlawpc.com

Dated: October 19, 2011

CERTIFICATE OF SERVICE

I hereby certify that a true and correct of the foregoing Answer and Affirmative Defenses of Defendant, Riexinger & Associates, LLC, were served on this date via the electronic filing system and regular mail, postage-prepaid, addressed to the following:

SHIMSHON WEXLER
2710 BROADWAY
FLOOR 2
NEW YORK, NY 10025-8701

/s/ RACHEL MARIN

RACHEL MARIN (RM2010)

Dated: October 19, 2011